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ALEXANDRIA, VA 22313-1450
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Arnold S. Weintraub
THE WEINTRAUB GROUP, PLC
Suite 240
32000 Northwestern Highway
Farmington Hills MI 48334

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OFFICE OF PETITIONS

In re Application of :
Gehrig et al. :
Application No. 10/735,233 :
Filed: December 12, 2003 :
Attorney Docket No. CAB-129-A :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), which is being treated as a petition under 37 CFR 1.137(b), filed August 11, 2005, to revive the above-identified application.¹

This application became abandoned for failure to respond timely to the Notice to File Missing Parts of Nonprovisional Application (“Notice”) mailed on April 27, 2004, which set a two-month extendable period to reply. Petitioner did not obtain any extensions of time to respond to the Notice. Accordingly, this application became abandoned on June 28, 2004. A Notice of Abandonment was mailed on January 6, 2005.

The statement of unintentional delay presented in the petition does not comply with the current rule. 37 CFR 1.137(b)(3) requires petitioner to submit a statement that “the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.” However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

With the present petition, petitioner authorized the Office to charge any additional fees. In accordance with petitioner’s authorization, Deposit Account No. 50-2815 will be charged the \$65.00 surcharge for the late filing of the declaration and the \$130.00 surcharge for filing a Non-English specification as required by the Notice of April 27, 2004.

As petitioner has met the requirements of 37 CFR 1.137(b), the petition is **granted**.

¹The Office notes that the petition is entitled “Petition to Revive an Abandoned Patent Application under 37 CFR 1.137(a).” However, in a paper styled “Communication,” petitioner stated that the application was “unintentional” abandoned. Moreover, petitioner paid the \$750.00 petition fee to revive an unintentionally abandoned application.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions